

## Township of Ocean Planning Board Meeting Minutes March 6, 2020

Prepared by Corinne Anderson; Completion: 5/22/20

Start Recording: 7:04:15 PM

Pledge of Allegiance

Chairman: Laurie, open public meeting stats.

Laurie: Pursuant to the permission of New Jersey open public meetings act the notice of the meeting has been properly provided by sending copies of the notice of the meeting to the Asbury Park Press and the Press of Atlantic City. Notice was posted on a bulletin board in the administration building.

Chairman: Very Good. Roll call.

Beck: Here

Bonamassa:

Boulderstone: Here

Denning:

Dodd: Here

Kavka: Here

Lippincott: Here

Petrosilli: Here

Shapiro: Here

Sneddon:

Sweeney:

Laurie: Let the record reflect that the professionals present are Steven Yost from Haines & Yost , Jason Worth from T&M Associates.

Chairman: Okay, slight change to the agenda tonight where we don't have the minutes from the February 6 meeting, prepared yet for a vote. So we'll prepare that for next month. Six approvals of bills, everyone should have a list of the bills.

Barry Water: So moved

Chairman: Barry Water, motion to accept.

Beck: Second.

Chairman: All in favor.

Group: Ayes

Chairman: Very Good

Laurie: Mr. Beck, was that you who seconded?

Beck: Yes

Chairman: Yes, he did.

Laurie: Thank you.

Chairman: Okay, there is a list of correspondence attached. Item 8, no new resolutions for tonight. It also notes no formals for tonight. Just a little bit of old business. Steve do you have an update for us, or?

Steven Yost: I do. The board is hung, because there is no resolution of approval on the main break application that we heard last month. The reason for that is, is that at the hearing, right after the hearing, at the hearing an issue came up that sorted out that the applicant given proper notice to everybody. And, based upon the information we had at the time the information was presented we thought that they had the right to rely upon the mailing list that was provided by our tax office. After the hearing we had to look a little closer at some of the paperwork and we discovered that actually unfortunately the applicant's attorney had put the wrong lot number, one of the two lot numbers that they were identifying was [was] an incorrect lot number, so when they got the tax roll back with the property owners who had property within two hundred feet of the application they didn't appear on the list that should have been on the list and properties that weren't on the list that should have been notified. So, we, I talked, discussed it with the chairman, and, also our board secretary and Mrs. Dodd, we're helping getting some documentation to me, but it was very clear it that was an error by applicant, and I think, I thought, and I advised the chairman that under those circumstances of the opinion that the trip of the four - had no jurisdiction to hear the application because notice is a jurisdictional one. So, the main one information, two for the attorney for the applicant, and they pretty much agreed to us to what we had discussed that they saw the problem and they are agreeing to come back before the court, although I think it will be for the May hearing because of some scheduling conflicts, so what's going to have to happen is that is a non-event, and it has to come in as a brand new application has to be heard again, we have to make a record, the court will have to

make their findings based on the record, the applicant is going to have to re-notice and have to get a revised and properly identified tax list and renote the application for the next for next time the board hears it. So that's the reason we don't have a resolution today on that and I expect we'll see that again as a new application and, I'll, we'll take it up at that time.

Chairman: Okay, very good. Item 11, we have one item of new business tonight. We have a minor-subdivision for block 191 lots 3&4 by Mr. Petrosilli, before we move forward with that

John Petrosilli: I have to step down

Chairman: John, want to step down? Ok, and Steve, you have anything you want to advise us on.

Steve: Uh, yeah, just a couple basic things. You know we have a situation, not all that unusual, obviously the applicant is a member of the planning board. And we've had this situation come up before, and I think it was Jason Worth, had originally asked me a question about whether he had a conflict and he did. And I researched it. But, I thought the same, the board would be appropriate over this matter as well. There's a case that is pretty much right on point. Wyzykowski, W-Y-Z-Y-K-O-W-S-K-I, I'm showing this for the pronounce it, Wyzykowski vs. Reeses that's a New Jersey super case, 132 NJ 309, supreme court case, but basically, Mr. Pretrosilli is not like a mayor who would make an appointment of anybody up here under those, that type of circumstance, that might be considered a, to be a conflict that would change the situation for any of the individuals here. For instance if it were the mayor it maybe an appointment and if it was a mayor's application, that might be a different scenario, but here he serves on the board but he doesn't give up his right as a citizen, as a property owner, its common law right to come in and want an application, like anybody else. And the public policy behind that is, that the all the municipalities that we have in this state and all the volunteers for all the offices in those municipalities, you would have gave up your rights as a citizen and property application because you were a volunteer serving on the board of the town or whatever we would have a shortage of people, volunteers willing to come forward and serve the township, so that is the public policy behind it. There's nothing inappropriate about the application, so if anyone has anything beyond that with respect to Mr. Petrosilli either business relationship or something I would say, I am not aware of any conflict situation (inaudible) and is in his rights to rule. There's also a docket called rule of necessity and this the only board that can rule on this kind of application, particularly in this situation where Mr. Petrosilli is the chairman of the board of adjustments, so we can't even be passed up to there. So the applicant is properly before us, and that is all I have to say about that.

Chairman: Okay, very good, so let's move on to the presentation. Would you gentlemen care to introduce yourself, please?

Christopher Supsie: Thank you chairman, My name is Christopher Supsie, I am an attorney with the law firm Stein & Supsie. And I have with me Mr. Petrosilli in the audience, and Robert Harrington (Engineer) (inaudible) in your counsel opinions, regarding this application (inaudible).

This application is a minor subdivision , pretty straight forward, I'll have Mr. Harrington (in audible) this application, in a minute. Mr. Harrington has previously testified before this board at a different date and listed credentials (in audible) as an expert in this area.

Yost: Let me just ask about Mr. Harrington, you've appeared before this board before, correct?

Mr. Harrington: Yes I have.

Yost: And you're a licensed engineer in the state of New Jersey?

Mr. Harrington: I am

Yost: And you have the licenses relevant to what we are doing here?

Mr. Harrington: I am certified in Municipal engineering.

Yost: That's your license. And you've testified before this board and other boards in the state of New Jersey.

Mr. Harrington: Yes, Waretown Board of Adjustments and (inaudible).

Yost: Mr. Chairman, I submit to you that he is qualified

Chairman: Very good.

Yost: Alright, we'll swear him in now. You promise to tell the whole truth so help you god?

Mr. Harrington: I do

Yost: Please spell your name for our Board Secretary.

Mr. Harrington: Robert Harrington (spells), Certified in Municipal Engineering 508(in audible)

Laurie: Thank you.

Yost: Mr. Harrington, we have a client here prepared by you or on your behalf (inaudible) signed by Jay Perison out of Atlantic County. And that plan sets forth the minor subdivision properties in session (inaudible) explain to me what were the closing arguments.

Voice: Can we mark that A-1? For identification

Voice: How should I characterize that?

Supsie: This is the minor subdivision map.

Voice: Thank you.

Suspice: While we're marking, I have some photographs I can mark them to, if that's okay.

Voice: Sure

Supsie: I have a package of photos consisting of four photos and an aerial photo, five photos, can you please pass that around please. Can you mark that A-2.

Voice: We'll mark each individual photograph?

Chairman: Yeah. I think so.

Voice: Okay.

Chairman: Just ask Mr. Harrington, might as well go through the series, and ask Mr. Harrington what they show and do they accurately depict.

Voice: Mr. Harrington informed you of the package of photographs, from August 15th. What does A-2 show?

Mr. Harrington: A-2 shows - two existing (lot 4 and lot 3) homes address 9 vessel and 11 vessel road.

Voice: Was this photograph taken by you?

Mr. Harrington: Yes it was.

Voice: And this photograph and all the other photographs were taken by you and are accurate depictions of the positions (inaudible)

Mr. Harrington: Correct

Voice: Are these photographs taken by (inaudible)

Mr. Harrington: (inaudible)

Voice: And A-3, what does A-3 show?

Mr. Harrington: A-3 is the backyard, from lot 4 looking toward the other lot 3 of the existing garage and shed. You can see that there.

Voice: A-4 Please.

Mr. Harrington: A-4 is the street, looking at the house at seven vessel road on the left side shows the house on lot 4 as part of this application which is 9 vessel road.

Voice: The next photograph is A5.

Mr. Harrington: A-5 is the jouses to the right and north of the subject's property, the address is 13 and 15 vessel road.

Voice: And then A-6

Mr. Harrington: A-6 is the aerial photograph of the neighborhood, highlighting the two properties of the application. The red or the northern property is lot 3 the south property is in orange is is l shaped because it wraps around the lot.

Chairman: Okay, we will consider A2 through A6 in evidence.

Voice: We'll go back to A-1. we'll identify what this (inaudible) is, we'll look through the application.

Certainly, Mr. Petrosillis owns both lots 3 & 4, no new lots being created two lots and two lots intent, merely relining the rear property line of lot 3 for minor subdivision pink line and green line runs (inaudible) so there's a little chunk of property back there that's approximately 50x50 that will leave block 4 and become a part of lot 3. Proposed lot numbers of 3.01 and 4.01 that would make them very similar in size. They're currently both 50 ft wide and depth will be almost identical. As shown on the plan there are existing homes on each one of these lots.

Mr. Harrington: Correct

Mr. Harrington: The properties have been developed sometimes since the 50s, the house along the left Southernly house, I think, is of that ; the house on the north lot 3 is a newer house that was built in the 90s, development on as well. This is the R-1 Zone, the zoning has changed over the years since the time the lots were developed, the R-1 zone now requires a 1-acre lot and obviously these are much smaller lots.

Actually the amount property total 435 inches, dividing effectively in half as per the proposal.

There are a number of variances with this application. I believe, let's go through them. The first one, variance involves the new lot size, both lots existing now acres required, we're proposing 0.179 acres for lot 3.01 , and new lot size 0.172 acres for lot 4.01. This is an improved condition for lot 3, obviously because it's bigger, lot 4 gets a little bit smaller but it makes sense to even out these lots.

Again, that's a nonconforming preexisting condition that had existed (inaudible)

There is also variance for lot width. 125 ft required both lots sitat 50 feet. As to lot 3.01, there is an existing variance on that, going to correct that. 150 ft required, lot three is currently 100 ft but will become 150ft deep.

There is also a variance involving minimum front yard setback. 43 ft required, both existing conditions on 3.01 25.2 ft, 4.01 18.8ft. No changes, noconformring pre existing condition, no change in any shape or form by this application.

Mr. Harrington: Correct. Minimum side yard setback. Lot 3.01 has a side yard setback, the smallest side yard setback of 8.5 feet and 4.01 had a set back of 3.7ft

Voice: Again, those are non-conforming pre-existing condition but are not being modified by this application.

Voice: Correct

Harrington: Combined side yard setback; 40ft is required combined setback on lot 3.01 is 18.3ft and on lot 4.01 is 14.1 ft.

Voice: And that property would change with this application.

Harrington: Correct.

Voice: The minimum rear yard setback, which we are eliminating.

Harrington: Yes, ten foot rear yard is required, 10 ft is existing, and we're going to have new rear yard setbacks on both 59.5 inch 3.01, 88.5 on lot 4.01. So if this application is improved the minimum rear yard setback that currently exists on lot 4.0 would be eliminated.

Correct

There is also a maximum lot coverage variance involved.

Harrington: Yes, these are also existing lot items that are related to the lot, so by making one lot bigger and one lot smaller, it obviously affects those conditions. For lot 3, 15% is allowed, we have 23.8% for both, that's an improvement, that existing is commission is 26.2% so a little deduction there.

As for lot 4 there are no variances involved so while the lot coverage shrinks. There is still no variance involved. So in terms of this particular variance while we are not eliminating it we will actually improve it.

Yes

Harrington: Maximum impervious coverage, 20% is allowed, 32.8% is proposed. We have an existing condition on lot 3 of 40.8% so that is an improvement of about 8% as well.

Voice: There is also some accessory structure variances for minimum side yard setbacks

Right The garage and shed that are back behind lot 3 and are on lot 4; (in audible) so these variances kind of switch from one lot to the other (in audible).

One of the side yard setbacks is part of the accessory structure 5.2 ft on lot 3 is what; excuse me 5.2 on lot 4 is the existing condition that would be eliminated in 4.01, but then it would be a new condition, new variance on lot 3.01; same exact setback.

Voice: Minimum rear yard for accessory structure

Rob: 40ft required there is a shed, small shed back there it's 80 sf, 2.6 off the rear property line. It switches from lot 4 to lot 3.01, same set back.

Voice: And the last one I am seeing is the maximum lot coverage for an accessory structure.

Rob: Yes, what presents as required as a maximum, 5% on existing lot 4; once it is done then 6.7% on new lot 3.01.

Voice: But nothing on lot four.

Rob: Correct.

Voice: So again, switching over and a little bit of an enhancement, which is just the nature of

Rob: Yeah, taking from one, giving to the other so that way we have the same number of variances.

So I believe that's all the variances involved. In terms of this particular parcel of land, in terms of its size. Do you think there are some issues that we can't overcome in terms of eliminating variances?

Rob: Correct, the lots are undersized they've been undersized for 50/60 years, they've developed in that amount of time, it is uniform and consistent with the neighborhood they other lots on the street are similar in sizes, some are larger, the lot to the south looks like a double lot a couple across the lots, the waterfront lots are larger. But going north on the property the lots are both similar in size.

Voice: And what we are proposing to do, is to in fact even off the properties by making a line, that is basically down the line of the property.

Harrington: Yeah, it makes them more uniform in size. It makes that garage, that's actually used by Mr. P, is now part of his property not on the adjoining property.

Voice: Would you agree that making this more uniform would, in terms of planning of this particular application.

Harrington: Yeah, the benefits in my opinion outweigh the detriments. There is no judgment to use the land use act.

Voice: And it would be the (inaudible) states the applicable uses of the (inaudible) property.

Harrington: Yeah, no change to the overall property, their open space and light remain as they are.

Voice: And it would be consistent with the local ordinance in terms of what we have and what we propose. It would parlor and pact the ordinances given the conditions that exist.

Harrington: Correct.

Voice: There are also some technical comments. Report of Mr. Worth, he asked for approval from the tax assessor for the block and lot number, do you see that?

Voice: Yes we have it. We can submit if you like.

Voice: We can mark it into evidence right now or we can submit as part of the resolution approval.

Voice: Either way is fine, you want to mark it? Let's mark it.

Voice: Do you have an extra copy?

Supsie: I do.

Voice: It is A7?

Voice: Yes, A7.

Voice: A7, can you describe it Mr. Harrington.

Harrington: Yes, it is a letter from the Tax assessor, Martin Lynch, dated July 16, 2019, containing the new lot and block numbers and new addresses. Lot 3 will become lot 3.01 and lot 4 will become lot 4.01.

Voice: Okay, put that in evidence.

Chairman: We will move on to comments. It was recommended that monument property set before, the property be submitted for filing without this sheet. Do you accept? (question was garbled)

Voice: Yes.

Voice: Similarly, others requested that the zoning schedule be updated with the setbacks which were referenced in Mr. Worth's letter. (in audible)

Voice: Yes it is.

And, Harrington - matched the variances, Mr. Worth and you have no objection to that?

Harrington: Correct.

Voice: The engineer certification should be labeled as quote un-quote, township engineer, that would be correct

Worth: Yes

As a reference to misc, to a tax maintenance fee for 600 dollars that fee, which I would submit to the board, that payment has been submitted along with the application.

Agree

Comply to that request.

There is also a reference to Ocean County planning board health status of the ocean county status.

Application is pending, actually waiting on the outcome of this application and we'll make that application as part of the resolution.

So certainly we would submit that as part of the approval of this (inaudible).

That's all we have at this time. Any questions for Mr. Harrington.

Worth: If I may, Mr. Chairman. We obviously went through much of my review letter, but one question to the relative to the hardships that we have. And making the proposed lots more compliant. Almost question, there is a landlock lot behind these two that is almost in common ownership. I almost question whether or not that is already merged with existing lot 4 via Lockler

Supsie: You're referring to lot 6?

Worth: Yes, I had a question. Is it already merged via law? Because they are both undersized lots and common ownership and should it be included in the subdivision for that fact. I don;t know if that is an attorney question.

Voice: Sounds like it

Yost: What I indicate to the board is this: I certainly could have Mr. Petrosilli swear and testify if necessary but Mr. P acquired title for lot 6 many years ago. On the map right here, you see there is a large parcel XX. That large parcel, once upon a time, had potential of being developed for housing. So Mr. Petrocelli had the opportunity to acquire lot 6 and took that opportunity to basically put a buffer between these properties before this board and is a larger sub, the property thankfully was not developed as he was required by Ocean County to be preserved by the ocean county for preservation purposes.

Supsie: Mr. Petrosilli is requesting to retain lot 6 as it is, he wants to maintain that property as proper as sequestered - if there are issues with that, we can certainly discuss it here.

Boulderstone: By including lot 6, it would actually make the proposed new lots be less non-conforming in respect to the maximum lot coverage, wouldn't it?

Worth: I would agree with that statement.

Harrington: That's correct.

Worth: It would make the lot areas a little more conforming, lot coverage those sorts of items, those sorts of variances being requested would be more conforming.

Boulderstone: It would also solve the rear yard set back on lot 3.01.

Voice: Yes, it should.

Worth: Correct.

Lippincott: Lot six by itself is landlocked, correct?

Voice: Yes

Voice: So its non-buildable

Voice: It wouldn't be buildable either way.

Voice: You would have to have a relief of some sort before this court or another court.

Chairman: Other Comments?

Voice: That's our main comment, Mr. Chairman, at this point going through our letter, we've agreed to any of the map changes and the other items included in there. It is a matter of making sure that the subdivision itself is meeting law. Which is why I brought up the Lockner case.

Chairman: Perhaps we might want to hear from Council about the other point you brought up.

Yost: My recollection is that if you have common ownership of joined lots by operation of law they merge, they come together as part of the same lot. I think the board could permit a subdivision and leave lot 6 alone. But I think it's really part of the applicant's property and relevant to the application tonight.

Supsie: I would concur with your comments Mr. Yost. I would add to those comments which would be that while there is not a merger being able to utilize this property without coming to this board and securing a permit to use that property for any purposes other than how it is being used right now. It's just land.

Petrosilli: It's just there.

Supsie: It's just land, it's there. In its current state it wouldn't be (inaudible) either of these two properties while there is a merger, they would be able to know that property (inaudible) if not part of this in theory, he could sell it to the adjoining property owners if they were interested in purchasing it, but if it was part of the subdivision that opportunity would not exist, to further subdivide the property.

Inaudible murmuring.

Chairman: Okay, well this may be a good point to open for public comments. I see there are some people in the audience. Okay, anyone wishing to make any comments step forward.  
Motion to open to public comments.

Voice: So ruled

Voice: Second

Chairman: All in favor.

Group: Ayes

Chairman: Anyone wishing to comment on this, please step forward and give us your name and address. Ok no one from the public wants to speak. Motion to close public comments.

Voice: So ruled

Voice: Second

Voice: All in favor

Group: Ayes

Chairman: Ok, anymore board comments on the proposal?

Silence.

Chairman: Okay, do we have a motion to approve the subdivision as it is proposed.

Voice: So ruled

Denning: Second

Roll Call:

Shapiro, Yes

Beck: Yes

Boulderstone: Yes

Dodd: Yes

Kavka:

Lippincott

Voice: Thank you all.

Voice: Okay, good thank you.

Voice: Any other business before the board tonight. If not, motion to adjourn.

Voice: Motion to open for public comment.

Voice: So Moved

Voice: Second

Voice: All in favor

Group: Ayes

Chairman: Anyone from the public care to step forward and make any comments, please come on up.

Motion to close.

Chairman: Okay, seconded?

Voice: Second

Chairman: All in favor

Group: Aye

Voice: Motion to adjourn

Voice: Second

Voice: All in favor

Group: Aye.

Meeting Closed, Stop Recording: 7:39PM